

Assembly Bill No. 492

CHAPTER 822

An act to add Section 30609.5 to the Public Resources Code, relating to coastal resources.

[Approved by Governor October 8, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 492, Wayne. Coastal resources: public access.

Existing law requires the California Coastal Commission and the State Coastal Conservancy to implement and administer various programs related to coastal resources, including programs for coastal access.

This bill would prohibit state land, as defined, that is located between the first public road and the sea, with an existing or potential public accessway to or from the sea, or that the commission has formally designated as part of the California Coastal Trail, from being transferred or sold by the state to any private entity, unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. The prohibition would not apply if the private entity is a private, nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment and meets the requirements of specified provisions of existing law, or if the department or the conservancy makes specified findings at a noticed public hearing relating to the transfer or sale of the property. The bill would also permit the Department of Parks and Recreation and the conservancy to sell or transfer this state land if a public hearing is conducted and certain findings are made.

The people of the State of California do enact as follows:

SECTION 1. Section 30609.5 is added to the Public Resources Code, to read:

30609.5. (a) Except as provided in subdivisions (b) and (c), no state land that is located between the first public road and the sea, with an existing or potential public accessway to or from the sea, or that the commission has formally designated as part of the California Coastal Trail, shall be transferred or sold by the state to any private entity unless the state retains a permanent property interest in the land adequate to provide public access to or along the sea. In any transfer or sale of real property by a state agency to a private entity or person pursuant to this section, the instrument of conveyance created by the state shall require that the private entity or person or

the entity or person's successors or assigns manage the property in such a way as to ensure that existing or potential public access is not diminished. The instrument of conveyance shall further require that any violation of this management requirement shall result in the reversion of the real property to the state.

(b) This section shall not apply to the transfer of state land to a nonprofit organization that exists for the purposes of preserving lands for public use and enjoyment and meets the requirements of subdivision (b) of Section 831.5 of the Government Code.

(c) Notwithstanding the provisions of subdivision (a), state lands between the first public road and the sea, that are under the possession and control of the Department of Parks and Recreation or the State Coastal Conservancy, may be transferred or sold if the department or the conservancy makes one or more of the following findings at a noticed public hearing relating to the transfer or sale of the property:

(1) The state has retained or will retain, as a condition of the transfer or sale, permanent property interests on the land providing public access to or along the sea.

(2) Equivalent or greater public access to the same beach or shoreline area is provided for than would be feasible if the land were to remain in state ownership.

(3) The land to be transferred or sold is an environmentally sensitive area with natural resources that would be adversely impacted by public use, and the state will retain permanent property interests in the land that may be necessary to protect, or otherwise provide for the permanent protection of, those resources prior to or as a condition of the transfer or sale.

(4) The land to be transferred or sold has neither existing nor potential public accessway to the sea.

(d) Nothing in this section shall be construed to interfere with the management responsibilities of state resource agencies, including, but not limited to, the responsibilities to ensure public safety and implement the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code).

(e) As used in this section, "state land" means any real property in which the state or any state agency has an ownership interest including, but not limited to, a fee, title, easement, deed restriction, or other interest in land. It does not include land in which a city, county, city and county, or district has an ownership interest.

(f) Nothing in this section is intended to restrict a private property owner's right to sell or transfer private property.